

Candour/ Honesty

CPA

1. Under the CPA, [X] has an overarching obligation to act honestly at all times in relation to the civil proceeding: **s 17**
2. [X] also must not engage in conduct that is misleading or deceptive, or likely to mislead or deceive (**s 21**)

Professional Rules

1. [X] has a duty not to mislead or knowingly or recklessly deceive the court (**USR 19.1/UBR 24**). Moreover, **he/she** must be honest and courteous in all dealings with the court (**USR 4.1.2**)
2. These duties are supplemented by the duty to not engage in conduct which is likely to be prejudicial to the administration of justice or bring the profession into disrepute (**USR 5.1**)

Law

1. [X] may have breached these duties by _____.
 - 1.1. Under the **USR/UBR** [X] is obliged to inform the court of any binding authority or applicable legislation which is directly on point and against [Y]s case (**19.6/29**)
 - 1.2. [X] will not have breached their duty to act in [Y]s best interest by informing the court of such matters (**USR 17.2.3**)
2. Because [X] became aware of such matters while the decision remains pending, **he/she** must inform the court or request that the court relist the case for further argument (**USR 19.8/UBR 31**)
3. Or because [Z] informed [X] that the whole was will be withdrawn/consented to final judgment in favour of [Y] the duty has ceased (**USR 19.7/UBR 30**) unless the appropriate time to inform the court has already passed.

Facts

1. [X] may have breached these duties by _____, which could amount to [X] knowingly or recklessly misleading the court (**USR 19.1; UBR 24**) and is thereby prejudicial to the administration of justice (**USR 5.1**)
 - 1.1. *Solicitor:*
 - 1.1.1. However, because [X] simply failed to correct an error in a statement [Z] made to the court, it is not misleading (**USR 19.3**)
 - 1.1.2. Because [X] alleged _____ as a matter of fact, without believing on reasonable grounds that the factual material available provides a proper basis to do so, it is misleading: **USR 21.3**.
This is also most likely not a responsible use of court processes **USR 21.1**
 - 1.1.3. Must not mislead opponent
 - 1.1.4. Don't say half truths: **Meek**

- 1.1.5. Furthermore, [X] knowingly made a false statement to [Z] (opponent) and is thus in breach of **USR 22.1**
- 1.1.6. However, because [X] simply failed to correct an error in a statement [Z] made it is not misleading (**USR 22.3**)
- 1.1.7. Must not advise to give misleading evidence (USR 24)
2. *Statement by solicitor?* Because [X] knows the statement is misleading, he/she is obliged to take all necessary steps to correct it with the court/opponent as soon as possible (**USR 19.2/22.2; UBR 25**)

Barrister:

1. Barrister is subject to similar duties, however, they are entitled to rely on the solicitor for the facts (**UBR 66**)
2. Barristers must take all necessary steps to correct false statements ASAP: *LSC v Mullins*
3. Applies in mediation – consequences include public reprimand/fine

Ex parte application

1. As [X] is seeking interlocutory relief in an ex parte application, they are required to disclose all factual and legal matters which are within their knowledge, not protected by privilege and about which they have reasonable grounds to believe would support an argument against granting the relief (**USR 19.4/UBR 27**)
 - 1.1. [X] is also required to seek instructions for the waiver of privilege and if [Y] doesn't give this, must explain to [Y] their responsibility to authorise such disclosure and the consequences of not doing so (**USR 19.5/ UBR 28**)
 - 1.2. *Solicitor:* Moreover, [X] must inform the court that they cannot assure that all matters which should be disclosed, have been disclosed
 - 1.3. *Barrister:* Moreover, [X] must refuse to appear on the application

Document destruction

1. By advising [X] to destroy the report and its copies, Lawyer has advised [X] to act illegally. This is an indictable offense as these documents were reasonably likely to be required as evidence in future legal proceedings, and it is a crime to pervert the court of justice (**Crimes Act s 254**) (**British Tobacco**) and therefore [X]'s advice was neither competent (**4.1.3**) nor in the best interests of the client (**4.1.1**) In providing such advice, [X] compromised his/ her own integrity (**4.1.4**) as well as diminished the public confidence in the administration of justice (**5.1.1**).

Client perjury

1. As [X] became aware that [Y] lied in a material particular/falsified documents/suppressed material evidence by _____, [X] must advise [Y] that the court should be informed and request authority to do so. They must also refuse to continue acting for [Y] unless [Y] informs the court of the lie/falsification (**USR 20.1/ UBR 79**)

- 1.1. Nevertheless, without [Y]'s consent, [X] may not inform the Court of the lie/falsification (**USR 20.1/ UBR 79**)

Stated intention to disobey a court order

1. As [Y] informed [X] that they intend to disobey the courts order to _____, [X] must:
 - 1.1. Advise [Y] against such a course;
 - 1.2. Not advise [Y] how to carry out/conceal that course; and
 - 1.3. Not inform the court/opponent of [Y]'s intention unless [Y] authorises or [X] believes on reasonable grounds that [Y]'s conduct constitutes a threat to a person's safety (**USR 20.3; UBR 81**)

Guilty client

1. Can cease to act if client consents and enough time: **USR 20.2.1**